Wednesday, November 30, 1853.

The Senate was called to order by the President pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The journal of yesterday was read and adopted.

Mr. McDade presented the petition of Jesse L. McCrocklin, asking for land; referred to the committee on Private Land Claims.

Mr. Weatherford presented the petition of sundry citizens of Dallas county, praying for the passage of a special act to authorize the county court to levy a special tax for the erection of a courthouse; referred to the committee on Finance.

Also, the petition of sundry citizens of Ellis county, praying for the organization of a new county; referred to the committee

on Counties and County Boundaries.

Mr. Millican presented the petition of Earl Peirce and Horatio E. Peirce, asking for land; referred to the committee on Private Land Claims.

Mr. Martin presented the petition of James H. Dyer, asking for land; referred to the committee on Private Land Claims.

Also, the petition of John P. Rushing, asking for land; referred to the same committee.

Mr. Paschal, chairman of the committee on Internal Improvements, made the following report:

To the Hon. M. D. K. TAYLOR,

President of the Senate:

The committee on Internal Improvements, to whom was referred the bill entitled an act to provide for the construction of the Mississippi and Pacific Railroad, have had the same under consideration, and I am instructed by a majority of the committee to report the following amendments to the bill, and to recommend to the Senate the passage of the bill with the amendments.

The amendments proposed by the committee are, first, to strike out "sixteen," wherever the same may occur before "sections" in said original bill, and to insert in lieu thereof "twenty;" also, to strike out "twelve," wherever it occurs before "months," and to insert in lieu thereof "eighteen." They also propose to amend the second section by inserting after the word "Texas," in the third line, "so long as they shall remain the property of the State;" also, strike out "be," in the sixth line of the third section. Amend the sixth section by inserting after "corporate," third line, "for and during the term of ninety-nine years."

The committee propose the following as a substitute for the

ninth section of the original bill:

Be it further enacted, That said contractors shall " SEC. 9. have power to organize said company, by calling a meeting of the stockholders at such time and place as they may deem expedient, to elect a board of directors, to consist of not exceeding fifteen members, one of whom shall be chosen by the directors to act as President. And said directors, so elected, shall have power to appoint such other officers and agents as they may think proper, and to adopt such by-laws as may be necessary, not inconsistent with the Constitution of the United States nor the Constitution and laws of the State of Texas, a copy of which by-laws shall be filed with the Secretary of State, and published in at least three newspapers in this State; to provide for the meetings of the board of directors; appoint and dismiss officers and agents; regulate the manner of voting of stockholders; direct the manner in which shares shall be sold, transferred or forfeited; to establish from time to time rates and charges for the transportation of freight and passengers; to make, have and use a common seal, and alter the same at pleasure; issue bonds of not less than five hundred nor more than one thousand dollars; to borrow money upon the bonds of the company, or otherwise, for the purpose of constructing said road, with power to mortgage the same to secure the payment of said bonds and loans with the interest thereon; provided, that at the first election of directors, as herein provided, the contractors shall regulate the manner in which stockholders shall vote."

Your committee would offer the following as a substitute for the tenth section:

"SEC. 10. Be it further enacted, That said company may construct its road over or across any stream, or body of water, road, highway, or across any other railroad, and through any lands owned by individuals or corporations. And in all cases where lands belonging to individuals or corporations shall be taken by said company, it shall be lawful for the owner or agent of such person or corporation to appear before the district court of the county where such lands are situate, when the damages claimed amount to one hundred dollars or more, or before the nearest justice of the peace when the damages are one hunded dollars or less. And said suit shall proceed and be conducted according to the laws in force regulating preceedings in the district courts, and in justices' courts, as the case may be. And the question of damages shall be tried by a jury, sworn and empanelled as usual in said court, to assess the damages caused by

taking such lands; and said jury in considering their verdict, shall take into consideration whether the enhanced value of the residue of the land belonging to such person or corporation has not been, by means of said road, increased in amount equal to the damages sustained; and if so, they shall render a verdict in favor of said company—otherwise, against it, for the amount of damages which he, she, or they may have sustained. Provided, that in no case shall said company be bound to pay costs if it satisfactorily proves that an amount equal to the damages assessed by the verdict of the jury was tendered to the party suing before the institution of the suit; and the payment of such damages, before or after a judgment, shall operate so as to vest in said company a full and complete title to such land, not exceeding three hundred feet in width."

Your committee recommend that sections 11, 12, 13 and 14 be stricken out altogether, and that section 15, to be numbered 11, be so amended as to strike out all that part of the section coming after the word "property," in the fourth line, for the reason that the provisions of these sections are embraced in the general law regulating railroads in Texas, approved February 7th, A. D. 1853.

They propose to amend the 16th section, by numbering the same 12; also, by inserting after the word "company," in the first line, "person or persons;" also, by inserting "three" in place of "two," before "hundred" in the third line; also, by adding after the word "amount," 10th line, "within the time herein prescribed said contract shall be null and void, and;" and also, that the following words, to wit: "set aside said contract, and," be stricken out.

Amend the 17th section by numbering it 13; in place of "Governor," in the first line, insert "company;" insert "thirty" in place of "twenty" before "miles" in third line; strike out "or" in the sixth line; strike out "an amount of land" in the 7th line; and also add, as a proviso, after "finished" in the last line, "provided, said road shall cross the Trinity river on or south of the 32d parallel of north latitude."

For section 18 of the original bill, your committee offer as a

substitute the following, to be numbered section 14:

Sec. 14. That all of the vacant and unappropriated public lands belonging to the State of Texas, east of the 103d degree of longitude west from Greenwich, and embraced between the latitudes 31 and 33 degrees north; and all of the vacant and unappropriated land belonging to the State west of the 103d degree of longitude, and embraced between the parallels of latitude

30 deg. 31 minutes and 32 deg. north latitude, be and the same is hereby held in reserve by the State for the purposes herein set forth, until the tract of said road is located by said company; from and after which time there shall be held in reserve by the State, for the purposes above set forth, all of the vacant and unappropriated land belonging to the State, lying within thirty miles on each side of said road, until the same is surveyed and located in accordance with the provisions of the 17th section of this act: provided, that if there should not be a sufficient amount of vacant and unappropriated land belonging to the State embraced in the above last reservation to fully satisfy the amount of land to which said company may be entitled by virtue of a compliance with the provisions of this act, that the Governor cause to be issned by the Commissioner of the General Landoffice certificates for six hundred and forty acres each to said company for the balance they may be entitled to, which may be located upon any other vacant and unappropriated land belonging to the State, in such manner that no two sections shall join except at one corner. at the proper cost and charges of said company or their assigns, which shall be patented to said company as other lands; provided, that the alternate sections herein reserved to the State, shall so continue to be reserved to the use of the State until otherwise directed by law; and further provided, that said surveys shall be made in a square, and those adjoining the road shall front one mile thereon, and 'no more,' unless prevented by surveys made previous to the passage of this act.

Sections 19, 20 and 21, they propose to amend by numbering

them 15, 16 and 17, respectively.

From the foregoing amendments it will appear that your committee propose to increase the donations of land to twenty sections, instead of sixteen, as provided in the original bill. In the opinion of the committee the additional four sections proposed to be given, might be justified by the importance and magnitude of the work intended to be secured; but they have not been uninfluenced by the consideration that another amendment devolves the expense of surveying the twenty sections, as well as twenty alternate sections for the government, upon the company instead of the State, as proposed in the original bill. The extent and value of the donation, however, compared with the incalculable benefit to be derived from the construction of the great Atlantic and Pacific Railroad through Texas, will be more fully considered in a subsequent part of this report.

Your committee would here state the reasons which have induced a majority of the committee to recommend to the Senate

the adoption of the several most important amendments. The original bill climits the time for the construction of the first section of fifty miles of the road to twelve months from the day of the contract. To your committee the period appeared too short. Much labor and considerable delay must necessarily occur before the work can actually be commenced. The line of the road must first be located; and this, perhaps, will involve the necessity of several surveys, or reconnoissances from the Mississippi River to El Paso, if not to the Pacific Ocean. Another cause of delay may be apprehended from a delay on the part of Congress in granting the right of way through the territory of New Mexi-If to these causes of delay be added the uncertainty of the navigation of Red River, upon which the iron for the first section must be conveyed, we shall readily perceive the importance of extending the time for the completion of the first section to eighteen months.

The original bill provides for depositing two hundred thousand dollars by the contractors with the Treasurer of the State, to be forfeited in case the first section of the road be not constructed in the terms of the contract. Your committee think the sum too small, and have recommended an amount requiring a deposit of three hundred thousand dollars. A minority of the committee were even of the opinion that a still larger deposit should be exacted as a forfeit.

The section offered by the committee as a substitute for section 18 of the original bill, provides for the reservation of the nearest lands within two degrees of latitude east of the eastern line of New Mexico, and one and a half degrees west of that line, until the track of the road shall have been located and declared, when the reservation is to extend thirty miles on each side of the road. The reservation embraces that portion of the country lying between the parallels of latitude 31° and 33° north and east of the 103do of longitude west from Greenwich. and between 30° 30' and 32° northwest of said degree of longitude. It is not doubted that the track of the road, for the greater portion of the distance, must pass nearly through the centre of this reservation. It is further provided, that the vacant lands within the reserved thirty miles on each side of the road, are to be surveyed into sections of 640 acres each by the company, which is to receive the alternate sections, to the extent of twenty sections per mile, if there he a sufficient number of the alternate sections; if not, then the company is to receive the halance in certificates, to be located in the same manner, on other vacant lands of the State. Thus, it will be seen, alternate sections are left to the use of the State, the disposal of which should become an object of serious consideration with the present Legislature. The reservation provided for in this section appears to your committee highly necessary to secure the interest of the company and the State, and more effectually to accomplish the great objects intended to be attained. If left open for locations and entries, the first indication of the route intended for the track of the road would draw along the whole line hordes of speculators, who would appropriate to themselves the best of the lands and deprive the State of the great advantages which it may reasonably hope to realize by reason of the enhanced value of the alternate sections, as well as to take from the company one of the strongest inducements which the State offers for the construction

of the road through its limits.

It will also be seen that your committee recommend the original bill to be so amended as to require the road to cross the Trinity River on or south of the thirty-second parallel of north latitude. In this amendment a minority of the committee did not concur; but to a majority of the committee the amendment seems necessary, as well on account of the centre of the present population of the State, as on account of two important railroads now in the progress of construction, in the direction of the eastern line of Texas, through the adjoining State of Louisiana. We mean the New Orleans and Opelousas Railroad, which is intended to reach the Sabine on or south of the thirty-second parallel of north latitude; and the road projected and leading through the upper part of Louisiana, from Vicksburg, by way of Shreveport, to the eastern boundary of Texas. The first of these roads connecting us with the most important commercial city of the south; and the last named connecting us directly, by a series of railfoads, completed and shortly to be completed, with the five great southern States of South Carolina, Georgia, Florida, Alabama and Mississippi, from which we receive a large portion of our most valuable immigrant population, forms a consideration too important to be overlooked in the location of the great Atlantic and Pacific road. A majority of your committee, so far from believing that this requirement will operate as an impediment to the construction of the contemplated road through the limits of our State, are inclined to the belief that it will bring into united and harmontons action more States and larger interests than any other proposed route.

Your committee are unwilling to conclude this report without dwelling more largely on the importance to us of securing the construction of the Atlantic and Pacific road through our State

and of presenting some of the advantages which, as a State, we may hope to realize in the future as a necessary consequence resulting from the attainment of this great object. At the present day to undertake to demonstrate that railroads create wealth and prosperity wherever they are constructed, would be as idle as to attempt to show that the earth, if properly cultivated, would yield the productions necessary for the support, prosperity and happiness of man. Not more certainly does the earth enrich the industrious husbandman with its bountiful supplies than that a railroad enriches all those who are in a position to be benefitted by its advantages; therefore, without stopping to dwell upon the immense impetus to commerce and prosperity every where imparted by the construction of railroads, or to consider the political influence which the construction of the contemplated road through our State would add to the Southern States of the confederacy, we shall proceed to consider the influence such a road would have upon the prosperity and wealth of Texas. Possessed, as the State is, of more than 102,600,000 acres of public domain, embracing every variety of soil and climate in the temperate zone, having a seacoast of more than five hundred miles, and extending from east to the west in the direction of the Pacific shore about eight hundred miles; interspersed with forests, alluvious rich prairies, and mountains abounding in mineral productions, it will readily be seen that Texas has all the elements of a great and prosperous State. That which is wanting to convert these elements into so many sources of actual wealth and prosperity, are the facilities of intercommunication and population. Our vast extent of rich and vacant lands is unoccupied and useless for the want of the facilities of transporting our products to market; the pines of our forest are valueless, because they cannot be transported to the fertile prairies of the west, where they are wanting, and where they might readily be converted into gold; and our mineral productions lie useless and imbedded in the earth for the want of population to bring them to light and convert them to the uses of man. It is confidently believed that the construction of the great nationat road to the Pacific Ocean through Texas, would bring with it a tide of population and wealth such as was never before witnessed in a newly settled country. A well-regulated system of internal improvements would enable every important point in the State to connect with such road, and thus the benefits of the road might be diffused throughout the entire State.

The donation of lands, though large, are inconsiderable when compared with the advantages which the State would immediate

ly derive from the construction of the road. Supposing the main trunk of the road to be eight hundred miles in length, no more than 10,000,000 acres land under the bill would be required for its construction. This would still leave us a public domain of 92,000,000 acres. Of this, 10,240,000 would be of the reserved alternate sections, lying on each side of the main road. and the enhanced value of which would make them worth not less than fifteen million dollars. It we reserved to the use of the State these alternate sections, on account of their increased value, and should proceed to encourage a just and liberal system of internal improvements, by donations of lands, we should find our domain amply sufficient to accomplish at the same rate, every road desired in Texas. It would only require 38,400,000 acres. at twenty sections per mile, to construct three thousand miles of road. This would leave to the State 43,360,000 acres of vacant land, besides the reserved sections amounting to 10,240,000 acres. Giving to ten thousand pre-emptors 320 acres each, and allowing 1,800,000 acres to cover unknown claims, and we should still have 38,360,000 acres left, besides the alternate sections. With the great Pacific road passing eight hundred miles through Texas, and three thousand miles of road connecting this with the various parts of the State, it is impossible to place a correct estimate on the domain which would then remain to the State. But supposing the same should only be worth one dollar per acre. and certainly this is a low estimate, we should have a domain which would realize to the State \$48,000,000. This, invested for the purpose of aiding in the construction of other railroads, in loans of ten thousand dollars per mile, would aid in the construction of 4,800 miles additional road; and at five per cent. interest, would yield to the State 2,400,000, annually—an amount sufficient to educate every child in the State, and to defray the expenses of the government without one dollar of taxation upon the people. Your committee do not mean to be understood as saving that so large a quantity as twenty sections of land per mile should be given for all railroads. We believe that the most liberal advocate of the policy of donating lands for the construction of railroads has not claimed that more should be given than sixteen sections per mile, except for the main Pacific trunk, and one or two of its branches; nor would your committee be understood as saying that 8,600 miles of railroad will at any time he They believe that with the necessary for the State of Texas. main trunk of the Pacific road, extending from the eastern line of Texas to the Rio Grande, at or near El Paso, four thousand miles additional road, judiciously constructed, would bring every village and town, which is now or may hereafter be in the State, within thirty miles of a railroad. The instances given of the quantity of land which might be donated, and the extent of road that might be constructed, are only intended to present in a formidable light the inexhaustible resources of the State, present and future, which might be brought to aid in the construction of internal improvements. The theme is a pleasing one, and when studied, presents to the mind of the philanthropist and statesman a picture, in the future, of national wealth, prosperity and greatness beyond description.

Your committee are not unmindful that a certain class of persons, and some exercising political influence, view this subject in a different light. They readily admit that our domain in its present state is worthless, and would be willing to give it all away, provided it did not enrich the drones. They admit the importance and even necessity of the contemplated work—but say that twenty sections of land per mile would be too great a bonus to give for the construction of the road; not that the bohus is now great, but that it would become great by the completion of the very work intended to be secured. They say, when the road is completed, the donations in land will repay the entire amount expended in its construction, and therefore the bonus is The position may be true, and for the sake of argument we will admit it to be true, that the lands donated will re-Imburse the entire cost of the road; but it does not follow that the State would be loser, or that it would not be greatly benefitted.

Let us suppose the cost of the Mississippi and Pacific road through Texas to be \$16,000,000, and that the lands donated by the State would become of equal value by the time the road is completed, what would be the benefit or consideration received by the State for the lands which she had donated? In the first place, the road itself would constitute a part of the national domain or wealth of the State, and would have a value of \$16,000. The eminent domain of the lands donated would still remain in the State and constitute a part of the wealth of the State, equal to \$16,000,000. The alternate sections reserved to the use of the State would be of equal value, making the further sum of \$16,000,000. As yet we have said nothing of the enhanced value along the whole line of the road, or private property, nor of the wealth of the immigrant population, which would natu-Tally settle the wild and uncultivated lands on either side of the road. As to what would be the increased value of private property along the line of the road, or the wealth brought into the country by the immigrant population, must be a matter of conjecture; but your committee believe they are far within the bounds of probability when they state it at over \$100,000,000 in the first eight years after the commencement of the road. Thus making the addition to the wealth of the State along the line of the road, for thirty miles on each side, \$148,000,000. If the alternate sections reserved to the State be sold, this whole amount would be placed upon the assessment roll for taxation, and at one-tenth of one per cent., or one mill on the dollar, would yield to the State \$148,000 per annum taxes; and at our present rate of taxes, would yield an annual revenue of \$370,000. Thus we see that the State would be gainer, whatever might be the increased value of the land donated to the company for the construction of the road.

Your committee might pursue this subject further, but they believe that enough has been said to call the attention of members to the more prominent reasons which have induced them to recommend the passage of the bill.

All of which is respectfully submitted.

I. A. PASCHAL, Chairman.

On motion of Mr. Bryan, 200 copies of the bill were ordered to be printed, with brackets surrounding the amendments offered by the committee.

Mr. Paschal, from the same committee, made the following re-

port:

The committee on Internal Improvements, to whom was referred a bill supplementory to an act to establish the Galveston, Houston and Henderson Railroad Company, have had the same under consideration, and have instructed me to report the same to the Senate with the following amendment, and recommend its passage:

Amend the first section by striking out "five," in the 13th line,

and insert "twenty" in lien thereof.

The bill is intended to place this road on the same footing with other railroads in the State, in respect to a donation of eight sections of land per mile on the part of the State. Your committee can see no good reason why this should not be done, as the road, if built, will be of great public benefit. All of which is respectfully submitted.

Mr. Paschal, from the same committee, made the following re-

port:

The Internal Improvement committee, to whom was referred a bill originating in the House, to incorporate the Texas and

Red River Telegraph Company, have had the same under consideration, and find that it provides for no exclusive privileges, nor for the granting of any bonus on the part of the State. The bill merely provides for an act of incorporation, with power to construct and keep in operation a telegraphic line from the city of Galveston to Red River. The object is a laudable one, and calculated to benefit the public at large. Your committee, therefore, recommend the passage of the bill.

All of which is respectfully reported.

Mr. Potter, chairman of the committee on the Judiciary, made

the following report:

The Judiciary committee have considered a bill to authorize the cancellation of patents in certain cases. A majority of the committee approve of the object of the bill, and think it will save much special legislation. They also think that in order to fully attain the desired object, some provisions other than those contained in the bill referred are necessary; the committee have, therefore, directed me to return the accompanying substitute to the Senate, and recommend its adoption and the passage of the bill.

Mr. Sublett, chairman of the committee on Enrolled Bills, made the following report:

November 29th, 1853.

The committee upon Enrolled Bills have examined an act to incorporate the Black Cypress Bridge, Ferry and Turnpike Company; also, an act to incorporate the Sharon Union School; each of which has been correctly enrolled, and this day submitted to the Governor for his signature.

Mr. McDade, chairman of the committee on Counties and County Boundaries, to whom was referred the petition of James H. Tom, praying for a change of the boundary line between Washington and Austin counties, so as to include petitioner in the latter county, reported to the Senate the following bill and recommended its passage:

A bill for the relief of James H. Tom; read first time.

Mr. Guinn, from the committee on Engrossed bills, reported the following bills correctly engrossed:

A bill to more permanently locate the county seat of Cooke

county;

A bill to amend the 31st and 64th sections of an act to organize justice's courts, and to define the powers and jurisdiction of the same, approved March 20th, 1848;